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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR.JUSTICE S.R.BANNUR MATH

L.R.R.P.NO.981/1989

c/w

L.R.R.P.NO.3272/1989.

BETWEEN :

IN LRRP 981/89.

B. Babugowda,  
s/o. Koraga Gowda,  
aged about 48 yrs,  
Agriculturist,  
r/at. Shanthigodu  
village and Post,  
Puttur Taluk (DK).  
(By Sri. G.S. Vishweshwara, Adv.)

IN LRRP NO. 3272/89.

Narayana Tholpadi,  
s/o. Purushothama Tholpadi,  
aged about 56 years,  
Puttur Kasba village,  
Puttur Taluk, D.K.

.. PETITIONERS

(By Sri. P. Ganapathy Bhat, Adv.)

AND :

IN LRRP NO. 981/89.

1. Narayana Tholpady,  
s/o. Purushothama Tholpady,  
major, photographer,  
Asha Arts Studio,  
Near Old Post Office,  
Puttur (DK).
2. I Land Tribunal,  
Puttur Taluk,  
Puttur (DK),  
by its Secretary.

3. State of Karnataka,  
by its Secretary to Govt.  
of Karnataka,  
Revenue Department,  
Vidhana Soudha,  
Bangalore-560 001.

.. RESPONDENTS  
(IN LRRP.981/89)

(By Sri.P.Ganapathy Bhat, Adv.)

IN LRRP NO.3272/89.

1. B.Babu Gowda,  
s/o.Koraga Gowda,  
Shanthigodu village  
and Post, Puttur Taluk,DK.

2. The Ist Land Tribunal,  
Puttur, by its Secretary,  
Puttur, DK, Pin.574 201.

3. The State of Karnataka,  
by its Secretary,  
Revenue Department,  
M.S.Building,  
Dr.Ambedkar Road,  
Bangalore-1.

.. RESPONDENTS  
(IN LRRP 3272/89)

(By Sri.G.S.Vishweshwara, Adv.)

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These L.R.R.Ps are filed u/s.121-A of the Karnataka Land Reforms Act, against the order dated 20.12.1988 passed in LRAA.130/86 on the file of the Land Reforms Appellate Authority, Puttur, D.K, allowing the appeal and setting aside the order passed by the I Land Tribunal, Puttur, in LRYUT.626-74-75 dated 14.11.80 (in LRRP.981/89) and partly allowing the appeal and modifying the order passed by the Land Tribunal, Puttur, D.K, in LRYT.No.626/74-75.

These L.R.R.Ps coming on for hearing this day, the Court made the following:-

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O R D E R

These two petitions are filed challenging the order dated 28.12.1988 in LRAA.130/86 passed by the Land Reforms Appellate Authority, Puttur (D.K.).

2. One Babugowda petitioner in ~~GRP~~<sup>LRRP</sup> 981/89 claiming to be the tenant of lands in Sy.No.62/3-A1, 58/1-A, 62/3-A2 and 58/1-B totally measuring 3 acres 36 cents of Shantigodu village, Puttur, vide his application before the Land Tribunal for grant of occupancy rights. The petitioner in ~~GRP~~<sup>LRRP</sup> 3272/89 is the landlord who resisted the claim initially only in respect of Sy.No.62/3-A2. The Tribunal after recording the evidence of the parties granted occupancy rights to the tenant which was challenged by the landlord before the appellate authority. The appellate authority once again after recording the statements and perusing the documentary evidence by its impugned order confirmed the grant of occupancy rights so far as Sy.Nos.58-A, 58/1-B and 62/3-A and rejected the claim so far as 62/3-2A is concerned. The tenant has challenged in this petition so far as rejected of his claim in respect of Sy.No.62/3-A2 is concerned and the landlord has challenged grant of occupancy rights in respect of otherlands in the other companion petition.

3. It is an undisputed fact that original land in Sy.No.62/3-A2 was measuring 3 acres and odd which later came to be sub divided into Sy. Nos.62/3-A2 and 62/3-A3. This divided portion of Sy.No.62/3-A2 is an Areca garden and remaining is a paddy growing land. According to the learned counsel for the tenant, this land along with the other lands granted to him and adjacent to each other formed a compact block which was known as 'Manjotti Thimaru' and when the landlord had not disputed leasing of the other lands to the tenant, there was no justification on the part of the appellate authority to include this portion of the land merely placing reliance upon an unapproved lease deed produced by the landlord. It is further contended that the presumptive value of the revenue records has also not been properly construed and appreciated by the appellate authority and as such, the order of the appellate authority so far as this dispute, is liable to be set aside.

4. On the other hand, the learned counsel for the landlord contended that both the Tribunal and the appellate authority were not justified in granting occupancy rights to the tenant in any of the land and that the tenant has not proved his tenancy or occupancy

right. So far as the petitioner-landlord is concerned, it is to be mentioned at the outset that all along right from filing of the objections before the Land Tribunal and giving statements and producing records even before the appellate authority that the objection of the landlord is only in respect of Sy.No.62/3-A2. So far other lands are concerned, practically the landlord has conceded a claim of tenant. The earlier objection of the year 1977 filed before the Tribunal, the statements made before the Tribunal and the appellate authority all along do not show that the petitioner had in fact any objection for grant of occupancy rights for all the lands except the land in Sy.No.62/3-A2. Hence, in my opinion, it is now not open for the landlord to question the findings of the Land Tribunal and the Appellate Authority so far as the 3 lands are concerned. No doubt the findings of the Land Tribunal as well as the Appellate Authority based on appreciation of evidence, this Court exercising the revisional jurisdiction need not interfere with the orders unless the landlord is able to show that there was lack of jurisdiction, or error of jurisdiction or misappreciation of any evidence. As no such error has been pointed out by the landlord, in my opinion, the revision petition

filed by the landlord is liable to be rejected at the outset and the same is rejected in respect of the lands in dispute <sup>than</sup> other / Sy.No.62/3-A2.

5. So far as the main contest between the parties in respect of Sy.No.62/3-A2 according to the landlord except this land, the other lands have been given on lease to the tenant which is witnessed by a lease deed dated 25.5.1958. According to the landlord on 25.5.1958 a Chalageni chit was executed by both the parties viz landlord and father of the petitioner which is marked as Ex.P.1 before the Tribunal as well as Appellate Authority. In this Chalageni the present land in dispute has not been mentioned. But the contention of the learned counsel for the tenant is that, as this deed itself has not been proved by the landlord, no reliance could have been placed on the same. On perusal of the evidence, both before the Land Tribunal and the Appellate Authority, it is seen that there is no serious dispute raised as to the validity or genuineness of this lease deed. According to the tenant-petitioner it was his father along with the petitioner who was cultivating the land and due to the physical inability the petitioner has filed Form No.7 and the claim is on behalf of the family. The tenant has not specifically questioned the genuineness

of this lease deed. In cross-examination, he has admitted that his father might have executed such a document. According to both the counsels i.e, the Chalageni were to be prepared in triplicate, one copy would be given to the tenant and one to the landlord and the 3rd copy would be sent to the concerned Tahsildar. If actually the tenant doubted the genuineness he could have summoned the documents. But he has not done, so it is now not open to the tenant to state or to question the genuineness of such document. More over when he has not seriously disputed in his evidence about possibility of such document being there, there is nothing wrong in appellate authority in placing reliance upon such a document. Though it is argued that this land in dispute along with the other lands formed a compact block, no such evidence in this regard is made over before the Tribunal or before the appellate authority. As rightly pointed out by the learned counsel for the landlord, the tenant has stated in his evidence that all these lands were at one place:-

"ನಾನು ಖಾಯಂ ಮಾಡಿಸಿದ ದಾಖಲೆಗಳು  
ಒಂದೇ ಕಡೆಯಲ್ಲಿ ಇವೆ."

This statement does not mean that it was a compact block comprising of entire Sy.No.62/3-A . Admittedly, ~~the~~ original Sy.No.62/3-A was measuring 3 acres and odd and

it was later subdivided and as the dispute is only with regard to 30 cents of areca garden, it was for the tenant to show that entire Sy.No.62/3-A was specifically cultivated by him. No material has been placed in this regard and in the absence of any evidence and in the absence of raising dispute regarding validity or authenticity of lease deed, it cannot be said that findings of the appellate authority with elaborate reasoning for rejecting this claim is erroneous or illegal one.

5. I do not see that any ground is made out to take different view and as such, this revision petition fails and as such dismissed.

6. In the result, both the revision petitions are dismissed.

Sd/-  
JUDGE

mvs/27.6.98.  
16.7.98.